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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,766	01/12/2001	Mohsen Shahinpoor	2359-00	4964
7590	07/01/2004			
			EXAMINER	
			BLANCO, JAVIER G	
			ART UNIT	PAPER NUMBER
			3738	
DATE MAILED: 07/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/759,766	SHAHINPOOR ET AL.
Examiner	Art Unit	
Javier G. Blanco	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 March 2004.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3,7-9 and 11 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 2, 4-6, 10, and 14-20 is/are rejected.
- 7) Claim(s) 12 and 13 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 2-11, 19, and 20 are objected to because of the following informalities:
  - a. With each of claims 2-11, 19, and 20, please substitute “invention” (see line 1) with -- apparatus--. Appropriate correction is required.
  - b. Regarding claim 19, does the at least three bridges comprise (i) synthetic muscles, or, (ii) a synthetic muscle? Claim 20 (depends on claim 19) recite a synthetic muscle (see line 2). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a. Regarding claim 12, lines 5-7 recite (i) a first contraction force from the ciliary muscle to the at least one set of zonular fibers, and (ii) a second augmented contraction force provided by the at least one bridge. From lines 8-10, it is not clear if the second augmented contraction force is provided by the at least one bridge, or, provided by the at least one bridge and the zonular fibers. This renders the claim vague and indefinite. Claim 13 depends on claim 12.
  - b. Regarding claim 13, “the eye lens” (see line 1) lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4-6, 10, and 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Banko (US 4,253,199; cited in Applicants' IDS).

As seen in Figures 1-8, Banko discloses a lens implant and a surgical method for implanting it and augment far and near vision accommodation. Said lens implant will respond (e.g., deform) to muscle reflexes of the ciliary body therefore performing "a true, variable lens function" (e.g., accommodation; see claim 1; see column 1, lines 37-39; column 3, lines 26-37). The method comprises the steps of (i) relaxing the ciliary muscle (inherent since local anesthesia is used), (ii) affixing at least one bridge (Figures 2-4 and 6-8: lip/flap 33, or, sub-flaps 76) to at least one set of zonular fibers (Figures 2-4 and 6-8: sutures 35; see column 3, lines 26-28), (iii) transmitting a contraction force from the ciliary muscle to the at least one set of zonular fibers and the at least one bridge, and (iv) constricting the eye lens by an augmented contraction force from the at least one set of zonular fibers and the at least one bridge (see column 3, lines 26-37; see claim 1; see entire document).

**Response to Arguments:** Applicants' arguments filed March 19, 2004 have been fully considered but they are not persuasive:

- a. Banko clearly discloses that sutures 35 "act effectively as zonules" (see column 3, lines 26-28). In other words, sutures 35 are "artificial zonules".
- b. As mentioned in the 102(b) rejection above, either lip/flap 33, or, sub-flaps 76 are considered by the Examiner as the "at least one bridge". Sutures 35 are attached to lip/flap 33, or, sub-flaps 76 "by any suitable conventional suturing process either manual or mechanical which takes place either prior to the time that capsule 30 is inserted into the eye or after it is inserted" (see column 2, lines 61-64). As seen in Figures 2, 4-6, and 8, these manual or mechanical suturing processes include threading the sutures "in and around" the lip/flap 33, or, sub-flaps 76.
- c. Banko clearly discloses that his/her lens implant will perform "a true, variable lens function" (e.g., near and far vision accommodation; see claim 1; see column 1, lines 37-39; column 3, lines 26-37).

6. Claims 1, 2, 4-6, 10, and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Langerman (US 4,888,016; cited by the Examiner in the previous office action).

As seen in Figures 11-18, Langerman discloses a lens implant and a surgical method for implanting it and augment far and near vision accommodation. Said lens implant (artificial capsular bags 24, 27, and 29) will respond (e.g., deform/accommodate) to muscle reflexes of the ciliary muscle (see column 14, line 65 to column 15, line 2). The method comprises the steps of (i) relaxing the ciliary muscle (inherent since local anesthesia is used), (ii) affixing (see column 13, line 53 to column 14, line 60) at least one bridge (annular flap portion 24b, 27b', 27b") in and around (see Figures 15, 16, and 16A; see column 13, line 53 to column 14, line 60) at least

one set of zonular fibers (artificial zonular fibers 25), (iii) transmitting a contraction force from the ciliary muscle to the at least one set of zonular fibers and the at least one bridge, and (iv) constricting the eye lens by an augmented contraction force from the at least one set of zonular fibers and the at least one bridge (see entire document).

***Allowable Subject Matter***

7. Claim 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

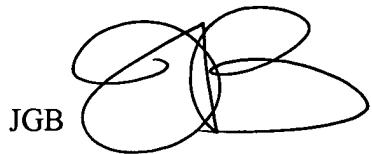
***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Baikoff (US 6,692,524 B2) and Payer (CH 681687 A5).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javier G. Blanco whose telephone number is 703-605-4259. The examiner can normally be reached on M-F (7:30 a.m.-4:00 p.m.), first Friday of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

JGB 

May 28, 2004

  
David H. Willse  
Primary Examiner